

VZCZCXYZ0000  
OO RUEHWEB

DE RUCNDT #0253/01 0881952  
ZNR UUUUU ZZH  
O 291952Z MAR 07  
FM USMISSION USUN NEW YORK  
TO SECSTATE WASHDC IMMEDIATE 1623

UNCLAS USUN NEW YORK 000253

SIPDIS

SENSITIVE

SIPDIS

E.O. 12958: N/A

TAGS: [UNGA](#) [UNSC](#) [PREL](#) [PTER](#) [OFDP](#)

SUBJECT: UNGA LEGAL COMMITTEE DEBATES REFORM OF UN SYSTEM  
OF ADMINISTRATION OF JUSTICE

REF: A. HACKETT/WILCOX EMAIL-01/09/07  
[1](#)B. WILCOX/HACKETT EMAIL-03/13/07  
[1](#)C. USUN 242  
[1](#)D. STATE 37360  
[1](#)E. WILCOX/HACKETT EMAIL-03/29/07  
[1](#)F. STATE 36957  
[1](#)G. STATE 31831

[1](#)1. (U) BEGIN SUMMARY: At a resumed session March 12-23, 2007, the General Assembly's Sixth (Legal) Committee discussed proposals to reform the UN's system of administration of justice, as well as a request of the Islamic Development Bank Group (IDB) for observer status in the General Assembly. On March 23, the Committee adopted by consensus a letter to the President of the General Assembly, which attached a list of points of agreement and a decision for the General Assembly concerning proposals for reforming the UN's system of administration of justice issue, as well as a resolution inviting the IDB to participate as an observer in the General Assembly and a revised provisional program of work adding the administration of justice item to the agenda for the Committee's fall 2007 meeting. On March 28, the General Assembly adopted by consensus the Sixth Committee's draft decision on the administration of justice, the revised provisional program of work, and the resolution granting observer status to the IDB (refs C-F). END SUMMARY.

[1](#)2. (U) During the Committee's plenary meeting on March 12, Germany (on behalf of the European Union), Australia (on behalf of Canada and New Zealand/CANZ), Egypt, Norway, the Philippines, and USUN delivered statements (refs A-B). Delegations said reform of the UN internal system of justice is necessary, and expressed gratitude for the work and recommendations of the Redesign Panel on the UN system of justice, which the Secretary-General appointed pursuant to General Assembly resolution 59/283. Per ref B, USUN raised concerns about various proposals set out in the July 2006 report of the Redesign Panel (A/61/205) and the Secretary-General's comments on it (A/61/758), including

SIPDIS

recommendations concerning damages, the establishment of an office to provide legal representation to UN staff, the ability of staff associations to bring class actions, the extension of the system of justice to contractors and others, the imposition of individual liability on managers, and jurisdiction. Some delegates cautioned that the Committee, during its consideration of the issue in its resumed session, should confine itself to legal issues, noting that the Fifth Committee in its resumed session would focus on the administrative aspects of reform.

[1](#)3. (SBU) During the Working Group's meetings, delegations debated proposals contained in the report of the Redesign Panel and the Secretary-General's comments on that report. At the Working Group's request, representatives from the

Office of the Ombudsman, Office of Legal Affairs, Office of Human Resources Management, and the Department of Management answered delegates' questions on various issues, including the present role of the Office of the Ombudsman, the remedies currently available to UN contractors and consultants who seek to bring claims against the UN, the role of staff associations, damage awards, and the role of the proposed office to provide legal advice and representation to UN personnel seeking to bring claims against the UN.

¶4. (U) Based on the Working Group's recommendations, the Sixth Committee agreed upon certain broad principles, which it set forth in a "points of agreement" paper for the Sixth Committee Chairman to transmit to the President of the General Assembly. The President will share the letter and its annexes with the Fifth Committee Chairman (ref C). The Chairman's transmittal letter highlights that the Sixth Committee did not endorse "all" of the recommendations of the Redesign Panel or the Secretary-General. It also notes that, although the recommendations of the Panel and the Secretary-General generally conform to internationally

SIPDIS  
recognized standards of justice, there might be other approaches to aspects of the proposals that also would conform to such standards.

¶5. (U) Among other things, the points of agreement paper says the existing system of administration of justice should be reformed expeditiously, and the system should be independent, transparent, and professionalized, comprising an informal and a formal system. The paper also says that if a complaint is brought before the informal system, it should not be brought in parallel to the formal system as long as parties continue to pursue agreement under the informal system. Once parties have reached an agreement through mediation, the paper says they are precluded from litigating claims covered by that agreement in the formal system. Notably, paper agrees that no exemplary or punitive damages should be awarded.

¶6. (SBU) The Committee and its Working Group did not reach consensus on various other issues contained in the reports of the Redesign Panel and the Secretary-General. Among other things, the Committee will continue to debate the scope of jurisdiction of the proposed informal and informal systems, including whether they should cover contractors and consultants and whether the appellate body should have jurisdiction over questions of material fact; the criteria and procedures for appointing judges; the availability of specific performance and compensatory damages; whether staff associations should be able to file class action suits; whether individual managers can be held personally accountable for actions that do not rise to the level of gross negligence; and whether the reformed system of justice should include a new office to provide legal representation and advice to persons who want to bring claims.

¶7. (U) On March 23, the Committee adopted by consensus a decision for the General Assembly concerning the issue of reforming the UN's system of administration of justice (A/C.6/61/L.21). The decision provides that the Committee would continue its consideration of the administration of justice agenda item at its fall 2006 meeting. It also requests the Secretary-General, in accordance with further decisions that the General Assembly may take on the recommendation of the Fifth Committee, to provide more details on a proposal to strengthen the functions of the Office of Ombudsman and draft elements of statute(s) of the first and appellate instances, taking into account the Sixth Committee's "points of agreement" paper.

¶8. (U) On March 23, the Committee also adopted by consensus a resolution inviting the IDB to participate as an observer in the Assembly's work (ref C).

¶9. (SBU) COMMENT: The Sixth Committee's resumed session yielded positive results, although significant divisions

remain on difficult issues. Our ability to garner support for the notion that once parties reach a mediated agreement to a dispute they should not be permitted to litigate and that parties should not receive exemplary or punitive damages represented significant achievements. The United States will need to continue to engage with others in New York and in capitals to ensure that the proposed reforms adequately address U.S. concerns. END COMMENT.

¶10. (SBU) On March 28, the General Assembly adopted by consensus the Sixth Committee's decision concerning the administration of justice. It also adopted by consensus the resolution inviting the IDB to participate as an observer in the Assembly's work. Israel, which had joined consensus on the resolution in the Sixth Committee, announced that it would not participate in the decision due to concerns about the IDB's relationship with Hamas. Cyprus, which had not participated in the Sixth Committee's decision because of IDB projects in Northern Cyprus, was not present. It is not clear whether this was deliberate or inadvertent because notice of the meeting had only been circulated the day before. WOLFF